

REFERENCE TITLE: motion picture production incentives

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1367

Introduced by
Senator Hellon

AN ACT

AMENDING SECTIONS 41-1517, 42-2003, 42-5009, 43-1075 AND 43-1163, ARIZONA
REVISED STATUTES; RELATING TO MOTION PICTURE PRODUCTION TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1517, Arizona Revised Statutes, is amended to
3 read:

4 41-1517. Motion picture production tax incentives: duties:
5 definitions

6 A. From and after December 31, 2005 through December 31, 2010, the
7 department of commerce shall qualify motion picture production companies that
8 produce one or more motion pictures in this state for motion picture
9 production tax incentives, subject to the following requirements and
10 conditions:

11 1. A motion picture production company must incur production costs in
12 this state of at least two hundred fifty thousand dollars IN PRODUCING ONE OR
13 MORE MOTION PICTURES during each twelve month period for which it is
14 qualified for the tax incentives.

15 2. For the purpose of this section, production costs are limited to
16 and subject to the following conditions:

17 (a) Salaries and other compensation for talent, management and labor
18 paid to residents of this state, as defined by section 43-104.

19 (b) A story and scenario to be used for a motion picture.

20 (c) Set construction and operations, wardrobe, props, accessories and
21 related services in this state. Expenses paid for construction contracts are
22 limited to contractors who are licensed under title 32, chapter 10.

23 (d) Photography, sound synchronization, lighting and related costs
24 incurred in this state.

25 (e) Editing and related services performed in this state.

26 (f) Rental of facilities and equipment in this state.

27 (g) Catered food, drink and condiment purchased in this state.

28 (h) Other direct in-state costs of producing the motion picture,
29 pursuant to rules adopted by the department of revenue that follow generally
30 accepted accounting standards for the motion picture industry.

31 (i) Payments for penalties and fines do not qualify as production
32 costs.

33 3. A motion picture production company must employ residents of this
34 state in its production activities as follows:

35 (a) In 2006, at least twenty-five per cent of full-time employees
36 working in this state must be residents of this state.

37 (b) In 2007, at least thirty-five per cent of full-time employees
38 working in this state must be residents of this state.

39 (c) In 2008 and every subsequent taxable year ~~thereafter~~, at least
40 fifty per cent of full-time employees working in this state must be residents
41 of this state.

42 4. A motion picture production company must submit a completed
43 application pursuant to subsection B or ~~G~~ H of this section. An application
44 is complete on receipt of all requested information.

1 5. A motion picture production company must include in the credits for
2 each motion picture, other than a commercial advertisement, an
3 acknowledgement that the production was filmed in Arizona.

4 B. A motion picture production company initially applying for
5 qualification under this section must report the following to the department
6 of commerce on a form and in a manner prescribed by the department, with the
7 cooperation of the department of revenue:

8 1. The name, address, telephone number and web site of the motion
9 picture production company.

10 2. The name and address of an individual who will maintain records of
11 expenditures in this state.

12 3. The projected first preproduction date and last production date in
13 this state.

14 4. The production office address and office telephone number in this
15 state.

16 5. The estimated total budget of the production.

17 6. The estimated total expenditures in this state.

18 7. The estimated total percentage of the production taking place in
19 this state.

20 8. The estimated level of employment of residents of this state in the
21 cast and crew.

22 9. A script, including a synopsis, the proposed director and a
23 preliminary list of the cast and producer.

24 10. A signed affirmation from the applicant that:

25 (a) The motion picture production company agrees to furnish records of
26 expenditures in this state to the department of revenue on request.

27 (b) Any items purchased with a certification issued under section
28 42-5009, subsection H are intended for use by the applicant directly in
29 motion picture production.

30 C. The department of commerce shall review all applications within
31 thirty days after submission pursuant to subsection B or ~~G~~ H of this section
32 to determine whether the motion picture production company satisfies all of
33 the criteria provided in subsection A of this section and shall establish the
34 process by which the department qualifies and preapproves a company for
35 motion picture production tax incentives. This process shall preapprove a
36 company for motion picture production tax incentives **FOR AN IDENTIFIED**
37 **TAXABLE YEAR** based on priority placement established by the date that such
38 motion picture production company filed its initial application for
39 qualification with the department. **IF A COMPANY FAILS TO BEGIN PRODUCTION**
40 **WITHIN FOUR MONTHS AFTER THE DEPARTMENT PREAPPROVES THE COMPANY, THE**
41 **PREAPPROVAL LAPSES, THE APPLICATION IS VOID AND THE AMOUNT OF THE PREAPPROVED**
42 **INCENTIVES DOES NOT APPLY TO THE DOLLAR LIMIT PRESCRIBED BY SUBSECTION D OF**
43 **THIS SECTION FOR THAT YEAR.**

44 D. **SUBJECT TO SUBSECTION E OF THIS SECTION,** the department shall not
45 preapprove income tax credits exceeding a total of:

1 1. Thirty million dollars FOR TAXABLE YEARS BEGINNING in 2006.
2 2. Forty million dollars FOR TAXABLE YEARS BEGINNING in 2007.
3 3. Fifty million dollars FOR TAXABLE YEARS BEGINNING in 2008.
4 4. Sixty million dollars FOR TAXABLE YEARS BEGINNING in 2009.
5 5. From and after December 31, 2009, seventy million dollars FOR
6 TAXABLE YEARS BEGINNING in ~~a~~ ANY single year.
7 6. Five million dollars for an individual motion picture.
8 E. IF THE DEPARTMENT DOES NOT PREAPPROVE THE FULL AMOUNT AUTHORIZED IN
9 ANY YEAR UNDER SUBSECTION D OF THIS SECTION, THE AMOUNT THAT IS NOT
10 PREAPPROVED SHALL BE ADDED TO THE AMOUNT AUTHORIZED IN THE NEXT YEAR.
11 ~~E~~. F. The department of commerce shall deny an application submitted
12 pursuant to subsection B or ~~G~~ H of this section if it determines that:
13 1. The motion picture production company does not meet all of the
14 established criteria provided in subsection A of this section.
15 2. The production would constitute an obscene motion picture film or
16 obscene pictorial publication under title 12, chapter 7, article 1.1.
17 3. The production depicts sexual activity as defined in title 13,
18 chapter 35.
19 4. The production would constitute sexual exploitation of a minor or
20 commercial sexual exploitation of a minor under title 13, chapter 35.1.
21 ~~F~~. G. On a determination by the department of commerce that a motion
22 picture production company qualifies for motion picture production tax
23 incentives, the department shall issue the company a written letter of
24 qualification and transmit a copy of the letter to the department of
25 revenue. A letter of qualification is effective for twelve consecutive
26 months as stated in the letter.
27 ~~G~~. H. A motion picture production company that applies for
28 requalification must continue to meet all of the eligibility criteria
29 provided under subsection A of this section and must provide the department
30 of commerce with updated information on the location, ownership and
31 operations of the business. For purposes of efficiency and reducing
32 duplicative or redundant reporting duties, the department may establish a
33 streamlined process for requalification.
34 ~~H~~. I. Upon completion of the motion picture production, a motion
35 picture production company that qualifies for the motion picture tax
36 incentives shall certify to the department the total amount of eligible
37 production costs associated with the project incurred from and after December
38 31, 2005. From and after June 30, 2006, the department shall provide
39 approval to a motion picture production company that it has met the
40 eligibility requirements of this section and shall notify the department of
41 revenue that a motion picture production company may claim the tax credits
42 pursuant to sections 43-1075 and 43-1163 AND THE AMOUNT OF THE CREDIT
43 APPROVED FOR THE COMPANY'S TAXABLE YEAR, REGARDLESS OF WHEN THE PRODUCTION
44 COSTS WERE ACTUALLY INCURRED. IF THE ELIGIBLE PRODUCTION COSTS ACTUALLY
45 INCURRED ARE LESS THAN THE AMOUNT PREAPPROVED FOR INCOME TAX CREDITS, THE

PREAPPROVED AMOUNT NOT INCURRED LAPSES AND DOES NOT APPLY TO THE DOLLAR LIMIT
 PRESCRIBED BY SUBSECTION D OF THIS SECTION FOR THAT YEAR.

~~I.~~ J. The department of commerce, with the cooperation of the department of revenue, shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.

~~J.~~ K. Any information gathered from motion picture production companies for the purposes of this section shall be considered confidential taxpayer information and shall be disclosed only as provided in section 42-2003, subsection B, paragraph 11.

~~K.~~ L. The department of commerce shall:

1. Keep annual records of the information provided on applications for motion picture production tax incentives. These records shall reflect a percentage comparison of the annual amount of monies exempted or credited to qualifying motion picture production companies to the estimated amount of monies spent on in-state production costs by motion picture production companies.

2. Maintain annual data on growth in Arizona-based motion picture industry companies and motion picture industry employment and wages.

3. Not later than December 1 of each year, prepare and publish a report summarizing the information collected pursuant to this subsection. The department shall make copies of the annual report available to the public on request.

~~L.~~ M. For the purposes of this section:

1. "Motion picture" means a single medium or multimedia program, including a commercial advertising message, that:

(a) Is created by production activities conducted in whole or in part in this state.

(b) Can be viewed or reproduced.

(c) Is intended for commercial distribution or licensing in the delivery medium used.

2. "Motion picture production company" means any person primarily engaged in the business of producing motion pictures and that has a physical business office and bank account in this state.

3. "Motion picture production tax incentives" means the tax deductions for transaction privilege and use taxes listed in section 42-5009, subsection H and the credit against income taxes provided under section 43-1075 or 43-1163.

Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:

~~42-2003.~~ Authorized disclosure of confidential information

A. Confidential information relating to:

1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.

1 2. A corporate taxpayer may be disclosed to any principal officer, any
2 person designated by a principal officer or any person designated in a
3 resolution by the corporate board of directors or other similar governing
4 body.

5 3. A partnership may be disclosed to any partner of the partnership.
6 This exception does not include disclosure of confidential information of a
7 particular partner unless otherwise authorized.

8 4. An estate may be disclosed to the personal representative of the
9 estate and to any heir, next of kin or beneficiary under the will of the
10 decedent if the department finds that the heir, next of kin or beneficiary
11 has a material interest which will be affected by the confidential
12 information.

13 5. A trust may be disclosed to the trustee or trustees, jointly or
14 separately, and to the grantor or any beneficiary of the trust if the
15 department finds that the grantor or beneficiary has a material interest
16 which will be affected by the confidential information.

17 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
18 to confidentiality either in writing or on the record in any administrative
19 or judicial proceeding.

20 7. The name and taxpayer identification numbers of persons issued
21 direct payment permits may be publicly disclosed.

22 B. Confidential information may be disclosed to:

23 1. Any employee of the department whose official duties involve tax
24 administration.

25 2. The office of the attorney general solely for its use in
26 preparation for, or in an investigation which may result in, any proceeding
27 involving tax administration before the department or any other agency or
28 board of this state, or before any grand jury or any state or federal court.

29 3. The department of liquor licenses and control for its use in
30 determining whether a spirituous liquor licensee has paid all transaction
31 privilege taxes and affiliated excise taxes incurred as a result of the sale
32 of spirituous liquor at the licensed establishment and imposed on the
33 licensed establishments by this state and its political subdivisions.

34 4. Other state tax officials whose official duties require the
35 disclosure for proper tax administration purposes if the information is
36 sought in connection with an investigation or any other proceeding conducted
37 by the official. Any disclosure is limited to information of a taxpayer who
38 is being investigated or who is a party to a proceeding conducted by the
39 official.

40 5. The following agencies, officials and organizations, if they grant
41 substantially similar privileges to the department for the type of
42 information being sought, pursuant to statute and a written agreement between
43 the department and the foreign country, agency, state, Indian tribe or
44 organization:

1 (a) The United States internal revenue service, alcohol and tobacco
2 tax and trade bureau of the United States treasury, United States bureau of
3 alcohol, tobacco, firearms and explosives of the United States department of
4 justice, United States drug enforcement agency and federal bureau of
5 investigation.

6 (b) A state tax official of another state.

7 (c) An organization of states that operates an information exchange
8 for tax administration purposes.

9 (d) An agency, official or organization of a foreign country with
10 responsibilities that are comparable to those listed in subdivision (a), (b)
11 or (c) of this paragraph.

12 (e) An agency, official or organization of an Indian tribal government
13 with responsibilities comparable to the responsibilities of the agencies,
14 officials or organizations identified in subdivision (a), (b) or (c) of this
15 paragraph.

16 6. The auditor general, in connection with any audit of the department
17 subject to the restrictions in section 42-2002, subsection C.

18 7. Any person to the extent necessary for effective tax administration
19 in connection with:

20 (a) The processing, storage, transmission, destruction and
21 reproduction of the information.

22 (b) The programming, maintenance, repair, testing and procurement of
23 equipment for purposes of tax administration.

24 8. The office of administrative hearings relating to taxes
25 administered by the department pursuant to section 42-1101, but the
26 department shall not disclose any confidential information:

27 (a) Regarding income tax, withholding tax or estate tax.

28 (b) On any tax issue relating to information associated with the
29 reporting of income tax, withholding tax or estate tax.

30 9. The United States treasury inspector general for tax administration
31 for the purpose of reporting a violation of internal revenue code section
32 7213A (26 United States Code section 7213A), unauthorized inspection of
33 returns or return information.

34 10. The financial management service of the United States treasury
35 department for use in the treasury offset program.

36 11. The department of commerce for its use in both:

37 (a) Qualifying motion picture production companies for the tax
38 incentives provided for motion picture production under chapter 5 of this
39 title and sections 43-1075 and 43-1163.

40 (b) Fulfilling its annual reporting responsibility pursuant to section
41 41-1517, subsection ~~J~~ L.

42 C. Confidential information may be disclosed in any state or federal
43 judicial or administrative proceeding pertaining to tax administration if the
44 taxpayer is a party to the proceeding.

D. Identity information may be disclosed for purposes of notifying persons entitled to tax refunds if the department is unable to locate the persons after reasonable effort.

E. The department, upon the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401 or verify whether or not a person has a privilege license and number or withholding license and number.

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information which is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.

G. If an organization is exempt from this state's income tax as provided in section 43-1201 for any taxable year, the name and address of the organization and the application filed by the organization upon which the department made its determination for exemption together with any papers submitted in support of the application and any letter or document issued by the department concerning the application are open to public inspection.

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and rental occupancy tax may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by the county, city or town. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality standards adopted by the department will result in the immediate suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. In order to comply with the requirements of section 42-5029, subsection A, paragraph 3, the department may disclose to the state treasurer statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer.

J. The department may disclose the aggregate amounts of any tax credit, tax deduction or tax exemption enacted after January 1, 1994. Information subject to disclosure under this subsection shall not be

disclosed if a taxpayer demonstrates to the department that such information would give an unfair advantage to competitors.

K. Except as provided in section 42-2002, subsection B, confidential information, described in section 42-2001, paragraph 2, subdivision (a), item (iii), may be disclosed to law enforcement agencies for law enforcement purposes.

L. The department may provide transaction privilege tax license information to property tax officials in a county for the purpose of identification and verification of the tax status of commercial property.

M. The department may provide transaction privilege tax, luxury tax, use tax, property tax and severance tax information to the ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

N. Except as provided in section 42-2002, subsection C, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only upon a showing of good cause and that the party seeking the information has made demand upon the taxpayer for the information.

O. This section does not prohibit the disclosure by the department of any information or documents submitted to the department by a bingo licensee. Before disclosing the information the department shall obtain the name and address of the person requesting the information.

P. If the department is required or permitted to disclose confidential information, it may charge the person or agency requesting the information for the reasonable cost of its services.

Q. Except as provided in section 42-2002, subsection C, the department of revenue shall release confidential information as requested by the department of economic security pursuant to section 42-1122 or 46-291. Information disclosed under this subsection is limited to the same type of information that the United States internal revenue service is authorized to disclose under section 6103(l)(6) of the internal revenue code.

R. Except as provided in section 42-2002, subsection C, the department of revenue shall release confidential information as requested by the courts and clerks of the court pursuant to section 42-1122.

S. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

T. The department shall release confidential information as requested by the attorney general for purposes of determining compliance with and enforcing section 44-7101, the master settlement agreement referred to therein and subsequent agreements to which the state is a party that amend or implement the master settlement agreement. Information disclosed under this subsection is limited to luxury tax information relating to tobacco

1 manufacturers, distributors, wholesalers and retailers and information
2 collected by the department pursuant to section 44-7101(2)(j).

3 U. For proceedings before the department, the office of administrative
4 hearings, the board of tax appeals or any state or federal court involving
5 penalties that were assessed against a return preparer or electronic return
6 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
7 information may be disclosed only before the judge or administrative law
8 judge adjudicating the proceeding, the parties to the proceeding and the
9 parties' representatives in the proceeding prior to its introduction into
10 evidence in the proceeding. The confidential information may be introduced
11 as evidence in the proceeding only if the taxpayer's name, the names of any
12 dependents listed on the return, all social security numbers, the taxpayer's
13 address, the taxpayer's signature and any attachments containing any of the
14 foregoing information are redacted and if either:

15 1. The treatment of an item reflected on such return is or may be
16 related to the resolution of an issue in the proceeding.

17 2. Such return or return information relates or may relate to a
18 transactional relationship between a person who is a party to the proceeding
19 and the taxpayer which directly affects the resolution of an issue in the
20 proceeding.

21 V. The department may disclose to the attorney general confidential
22 information received under section 44-7111 and requested by the attorney
23 general for purposes of determining compliance with and enforcing section
24 44-7111. The department and attorney general shall share with each other the
25 information received under section 44-7111, and may share the information
26 with other federal, state or local agencies only for the purposes of
27 enforcement of section 44-7101, section 44-7111 or corresponding laws of
28 other states.

29 Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to read:

30 42-5009. Certificates establishing deductions: liability for
31 making false certificate

32 A. A person who conducts any business classified under article 2 of
33 this chapter may establish entitlement to the allowable deductions from the
34 tax base of that business by both:

35 1. Marking the invoice for the transaction to indicate that the gross
36 proceeds of sales or gross income derived from the transaction was deducted
37 from the tax base.

38 2. Obtaining a certificate executed by the purchaser indicating the
39 name and address of the purchaser, the precise nature of the business of the
40 purchaser, the purpose for which the purchase was made, the necessary facts
41 to establish the appropriate deduction and the tax license number of the
42 purchaser to the extent the deduction depends on the purchaser conducting
43 business classified under article 2 of this chapter and a certification that
44 the person executing the certificate is authorized to do so on behalf of the
45 purchaser. The certificate may be disregarded if the seller has reason to

1 believe that the information contained in the certificate is not accurate or
2 complete.

3 B. A person who does not comply with subsection A of this section may
4 establish entitlement to the deduction by presenting facts necessary to
5 support the entitlement, but the burden of proof is on that person.

6 C. The department may prescribe a form for the certificate described
7 in subsection A of this section. Under such rules as it may prescribe, the
8 department may also describe transactions with respect to which a person is
9 not entitled to rely solely on the information contained in the certificate
10 provided for in subsection A of this section but must instead obtain such
11 additional information as required by the rules in order to be entitled to
12 the deduction.

13 D. If a seller is entitled to a deduction by complying with subsection
14 A of this section, the department may require the purchaser which caused the
15 execution of the certificate to establish the accuracy and completeness of
16 the information required to be contained in the certificate which would
17 entitle the seller to the deduction. If the purchaser cannot establish the
18 accuracy and completeness of the information, the purchaser is liable in an
19 amount equal to any tax, penalty and interest which the seller would have
20 been required to pay under this article if the seller had not complied with
21 subsection A of this section. Payment of the amount under this subsection
22 exempts the purchaser from liability for any tax imposed under article 4 of
23 this chapter. The amount shall be treated as a transaction privilege tax to
24 the purchaser and as tax revenues collected from the seller in order to
25 designate the distribution base for purposes of section 42-5029.

26 E. If a seller is entitled to a deduction by complying with subsection
27 B of this section, the department may require the purchaser to establish the
28 accuracy and completeness of the information provided to the seller that
29 entitled the seller to the deduction. If the purchaser cannot establish the
30 accuracy and completeness of the information, the purchaser is liable in an
31 amount equal to any tax, penalty and interest that the seller would have been
32 required to pay under this article if the seller had not complied with
33 subsection B of this section. Payment of the amount under this subsection
34 exempts the purchaser from liability for any tax imposed under article 4 of
35 this chapter. The amount shall be treated as a transaction privilege tax to
36 the purchaser and as tax revenues collected from the seller in order to
37 designate the distribution base for purposes of section 42-5029.

38 F. The department may prescribe a form for a certificate used to
39 establish entitlement to the deductions described in section 42-5061,
40 subsection A, paragraph 47 and section 42-5063, subsection B, paragraph 3.
41 Under rules the department may prescribe, the department may also require
42 additional information for the seller to be entitled to the deduction. If a
43 seller is entitled to the deductions described in section 42-5061, subsection
44 A, paragraph 47 and section 42-5063, subsection B, paragraph 3, the
45 department may require the purchaser who executed the certificate to

1 establish the accuracy and completeness of the information contained in the
2 certificate that would entitle the seller to the deduction. If the purchaser
3 cannot establish the accuracy and completeness of the information, the
4 purchaser is liable in an amount equal to any tax, penalty and interest that
5 the seller would have been required to pay under this article. Payment of
6 the amount under this subsection exempts the purchaser from liability for any
7 tax imposed under article 4 of this chapter. The amount shall be treated as
8 a transaction privilege tax to the purchaser and as tax revenues collected
9 from the seller in order to designate the distribution base for purposes of
10 section 42-5029.

11 G. If a seller claims a deduction under section 42-5061, subsection A,
12 paragraph 25 and establishes entitlement to the deduction with an exemption
13 letter that the purchaser received from the department and the exemption
14 letter was based on a contingent event, the department may require the
15 purchaser that received the exemption letter to establish the satisfaction of
16 the contingent event within a reasonable time. If the purchaser cannot
17 establish the satisfaction of the event, the purchaser is liable in an amount
18 equal to any tax, penalty and interest that the seller would have been
19 required to pay under this article if the seller had not been furnished the
20 exemption letter. Payment of the amount under this subsection exempts the
21 purchaser from liability for any tax imposed under article 4 of this chapter.
22 The amount shall be treated as a transaction privilege tax to the purchaser
23 and as tax revenues collected from the seller in order to designate the
24 distribution base for purposes of section 42-5029. For the purposes of this
25 subsection, "reasonable time" means a time limitation that the department
26 determines and that does not exceed the time limitations pursuant to section
27 42-1104.

28 H. From and after December 31, 2005 through December 31, 2010, the
29 department shall prescribe a form for a certificate used to establish
30 entitlement to the deductions described in section 42-5061, subsection B,
31 paragraph 23, section 42-5070, subsection C, paragraph 2, section 42-5074,
32 subsection B, paragraph 10, section 42-5075, subsection B, paragraph 20 and
33 section 42-5159, subsection B, paragraph 23 relating to motion picture
34 production. The certificate is effective for twelve consecutive calendar
35 months from and after the date of issuance and is subject to the following
36 requirements and conditions:

37 1. A motion picture production company as defined in section 41-1517
38 may use a certificate issued pursuant to this subsection only with respect to
39 production costs described in section 41-1517, subsection A, paragraph 2 that
40 are subject to taxation under article 2 or 4 of this chapter.

41 2. The department shall issue the certificate to a motion picture
42 production company on receiving the company's letter of qualification from
43 the department of commerce, except as otherwise provided in this subsection.

3. The department shall not issue a certificate to a motion picture production company that has a delinquent tax balance owing to the department under this title or title 43.

4. If the department determines that a motion picture production company ~~no longer qualifies for a certificate of exemption or~~ has used the certificate ~~of exemption~~ for unauthorized purposes **OR NO LONGER QUALIFIES FOR A CERTIFICATE, OTHER THAN FOR FAILURE TO MEET THE REQUIREMENTS OF SECTION 41-1517, SUBSECTION A, PARAGRAPH 1,** the department shall revoke the certificate ~~of exemption~~ and the motion picture production company is liable for an amount equal to the transaction privilege and use taxes that would have been due on taxable transactions during the time the company did not qualify for or improperly used the certificate, with interest and penalties as provided by law.

5. The department shall maintain annual data on the total amount of monies exempted through the use of certificates issued pursuant to this subsection and shall provide those data to the department of commerce on request.

6. The department of revenue, with the cooperation of the department of commerce, shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this subsection.

7. If, after audit, the department determines that a motion picture production company failed to meet any of the requirements prescribed by this subsection, any deductions from taxation from the use of the certificate are subject to recapture and payment by the motion picture production company to the department.

Sec. 4. Section 43-1075, Arizona Revised Statutes, is amended to read:

43-1075. Credit for motion picture production costs:
definitions

A. Beginning from and after December 31, 2005 through December 31, 2010, a credit is allowed against the taxes imposed by this title for motion picture production costs paid by a motion picture production company in this state that are directly attributable to the production of ~~a motion picture~~ **ONE OR MORE MOTION PICTURES** in this state. The amount of the credit is equal to a percentage of the amount of motion picture production costs paid in this state as follows:

<u>Production costs</u>	<u>Percentage credit</u>
\$250,000 - \$1,000,000	10%
\$1,000,001 - \$3,000,000	15%
More than \$3,000,000	20%

B. The department shall not allow in any year tax credits that exceed the aggregate amount prescribed in section 41-1517.

C. The department shall not allow a credit under this section to a taxpayer who has a delinquent tax balance owing to the department under this title or title 42.

1 D. To qualify for a credit under this section, the motion picture
2 production company must:

3 1. Employ residents of this state in production as follows:

4 (a) In 2006, twenty-five per cent of full-time employees working in
5 this state must be residents of this state.

6 (b) In 2007, thirty-five per cent of full-time employees working in
7 this state must be residents of this state.

8 (c) In 2008 and every subsequent taxable year ~~thereafter~~, fifty per
9 cent of full-time employees working in this state must be residents of this
10 state.

11 2. Include in the production credits for each commercial motion
12 picture, other than a commercial advertisement, an acknowledgement that the
13 production was filmed in Arizona.

14 3. Receive preapproval and postapproval from the department of
15 commerce pursuant to section 41-1517.

16 E. Co-owners of a motion picture production company, including
17 partners in a partnership, members of a limited liability company and
18 shareholders of an S corporation as defined in section 1361 of the internal
19 revenue code, may allocate the credit allowed under this section among the
20 co-owners on any basis without regard to their proportional ownership
21 interest. The total of the credits allowed all such owners of the motion
22 picture production company may not exceed the amount that would have been
23 allowed for a sole owner of the company.

24 F. If the allowable tax credit for a taxpayer exceeds the taxes
25 otherwise due under this title on the claimant's income, or if there are no
26 taxes due under this title, the taxpayer may carry the amount of the claim
27 not used to offset the taxes under this title forward for not more than five
28 consecutive taxable years' income tax liability.

29 G. All or part of any unclaimed amount of credit under this section
30 may be sold or otherwise transferred under the following conditions:

31 1. A single sale or transfer may involve one or more transferees, and
32 a transferee may in turn resell or transfer the credit subject to the same
33 conditions of this subsection.

34 2. Both the transferor and transferee must submit a written notice of
35 the transfer to the department within thirty days after the sale or
36 transfer. The transferee's notice shall include a processing fee equal to
37 one per cent of the transferee's tax credit balance or two hundred dollars,
38 whichever is less. The notice shall include:

39 (a) The name of the motion picture production company.

40 (b) The date of the transfer.

41 (c) The amount of the transfer.

42 (d) The transferor's tax credit balance before the transfer and the
43 remaining balance after the transfer.

44 (e) All tax identification numbers for both transferor and transferee.

45 (f) Any other information required by rule.

3. A sale or transfer of the credit does not extend the time in which the credit can be used. The carryforward period of time under subsection F of this section for a credit that is sold or transferred begins on the date the credit was originally earned.

4. If a transferor was not qualified or was disqualified from using the credit at the time of the transfer, the department shall either disallow the credit claimed by a transferee or recapture the credit from the transferee through any authorized collection method. The transferee's recourse is against the transferor.

5. In the case of any failure to comply with this subsection, the department shall disallow the tax credit until the taxpayer is in full compliance.

H. The department shall maintain annual data on the total amount of monies credited pursuant to this section, and shall provide those data to the department of commerce on request.

I. The department, with the cooperation of the department of commerce, shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.

J. The credit allowed by this section is in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the internal revenue code.

K. For the purposes of this section, "motion picture" and "motion picture production company" have the same ~~meaning~~ MEANINGS prescribed in section 41-1517.

Sec. 5. Section 43-1163, Arizona Revised Statutes, is amended to read:
43-1163. Credit for motion picture production costs:
definitions

A. Beginning from and after December 31, 2005 through December 31, 2010, a credit is allowed against the taxes imposed by this title for motion picture production costs paid by a motion picture production company in this state that are directly attributable to the production of ~~a motion picture~~ ONE OR MORE MOTION PICTURES in this state. The amount of the credit is equal to a percentage of the amount of motion picture production costs paid in this state as follows:

<u>Production costs</u>	<u>Percentage credit</u>
\$250,000 - \$1,000,000	10%
\$1,000,001 - \$3,000,000	15%
More than \$3,000,000	20%

B. The department shall not allow in any year tax credits that exceed the aggregate amount prescribed in section 41-1517.

C. The department shall not allow a credit under this section to a taxpayer who has a delinquent tax balance owing to the department under this title or title 42.

D. To qualify for a credit under this section, the motion picture production company must:

1 1. Employ residents of this state in production as follows:

2 (a) In 2006, twenty-five per cent of full-time employees working in
3 this state must be residents of this state.

4 (b) In 2007, thirty-five per cent of full-time employees working in
5 this state must be residents of this state.

6 (c) In 2008 and every subsequent taxable year ~~thereafter~~, fifty per
7 cent of full-time employees working in this state must be residents of this
8 state.

9 2. Include in the production credits for each commercial motion
10 picture, other than a commercial advertisement, an acknowledgement that the
11 production was filmed in Arizona.

12 3. Receive preapproval and postapproval from the department of
13 commerce pursuant to section 41-1517.

14 E. Co-owners of a motion picture production company, including
15 corporate partners in a partnership and members of a limited liability
16 company, may allocate the credit allowed under this section among the
17 co-owners on any basis without regard to their proportional ownership
18 interest. The total of the credits allowed all such owners of the motion
19 picture production company may not exceed the amount that would have been
20 allowed for a sole owner of the company.

21 F. If the allowable tax credit for a taxpayer exceeds the taxes
22 otherwise due under this title on the claimant's income, or if there are no
23 taxes due under this title, the taxpayer may carry the amount of the claim
24 not used to offset the taxes under this title forward for not more than five
25 consecutive taxable years' income tax liability.

26 G. All or part of any unclaimed amount of credit under this section
27 may be sold or otherwise transferred to a person who has tax liability under
28 this title under the following conditions:

29 1. A single sale or transfer may involve one or more transferees, and
30 a transferee may in turn resell or transfer the credit subject to the same
31 conditions of this subsection.

32 2. Both the transferor and transferee must submit a written notice of
33 the transfer to the department within thirty days after the sale or
34 transfer. The transferee's notice shall include a processing fee equal to
35 one per cent of the transferee's tax credit balance or two hundred dollars,
36 whichever is less. The notice shall include:

37 (a) The name of the motion picture production company.

38 (b) The date of the transfer.

39 (c) The amount of the transfer.

40 (d) The transferor's tax credit balance before the transfer and the
41 remaining balance after the transfer.

42 (e) All tax identification numbers for both transferor and transferee.

43 (f) Any other information required by rule.

44 3. A sale or transfer of the credit does not extend the time in which
45 the credit can be used. The carryforward period of time under subsection F

1 of this section for a credit that is sold or transferred begins on the date
2 the credit was originally earned.

3 4. A transferee shall apply the credit in the same manner as the
4 person originally awarded the credit.

5 5. If a transferor was not qualified or was disqualified from using
6 the credit at the time of the transfer, the department shall either disallow
7 the credit claimed by a transferee or recapture the credit from the
8 transferee through any authorized collection method. The transferee's
9 recourse is against the transferor.

10 6. In the case of any failure to comply with this subsection, the
11 department shall disallow the tax credit until the taxpayer is in full
12 compliance.

13 H. The department shall maintain annual data on the total amount of
14 monies credited pursuant to this section, and shall provide those data to the
15 department of commerce on request.

16 I. The department, with the cooperation of the department of commerce,
17 shall adopt rules and publish and prescribe forms and procedures as necessary
18 to effectuate the purposes of this section.

19 J. The credit allowed by this section is in lieu of any allowance for
20 state tax purposes of a deduction of those expenses allowed by the internal
21 revenue code.

22 K. For the purposes of this section, "motion picture" and "motion
23 picture production company" have the same ~~meaning~~ MEANINGS prescribed in
24 section 41-1517.

25 Sec. 6. Retroactivity

26 This act applies retroactively to taxable periods beginning from and
27 after December 31, 2005.